

Message Text

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FM AMEMBASSY GABORONE

TO SECSTATE WASHDC PRIORITY 7171

INFO AMEMBASSY LONDON

AMEMBASSY MASERU

AMEMBASSY MBABANE

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TAGS: EAID, SCUL, PFOR, BC, LT, WZ

SUBJECT: UBLS GOB VIEW OF UNIVERSITY BREAK-UP

1. SUMMARY: PERMANENT SECRETARY, MINISTRY OF EDUCATION, BIAS MOOKODI CALLED ON THE AMBASSADOR OCTOBER 22 TO DISCUSS LESOTHO ACTION IN PASSING ENABLING LEGISLATION TO WITHDRAW FROM UBLS AND ESTABLISH NATIONAL UNIVERSITY. HE SAID THE GENESIS OF THE PROBLEM WAS THE CONTESTING BY LESOTHO OF THE COUNCIL'S AUTHORITY TO GRANT THE VICE-CHANCELLOR, CYRIL ROGERS, A FOUR-YEAR CONTRACT. HE CLAIMED THAT THE LESOTHO ACTION WAS FINAL AND THAT BOTSWANA AND SWAZILAND ARE FACED WITH THE NEED TO FIND RESOURCES TO CONTINUE A UNIVERSITY SYSTEM. AMBASSADOR QUESTIONED THE FINALITY OF THE LESOTHO POSITION AND ENCOURAGED MOOKODI TO SEARCH FOR A SOLUTION TO KEEP THE UNIVERSITY INTACT. END SUMMARY.

2. MOOKODI SAID THAT THE EVENTS LEADING UP TO THE DISSOLUTION STARTED IN APRIL OF 1974 WHEN AT A MEETING OF THE UNIVERSITY COUNCIL VICE-CHANCELLOR CYRIL ROGERS WAS OFFERED A FOUR-YEAR CONTRACT. AT THAT MEETING, BOTSWANA SUPPORTED THE IDEA: SWAZILAND AND LESOTHO REPRESENTATIVES SAID THEY WOULD HAVE TO CONSIDER THE MATTER. SWAZILAND LATER INDICATED ITS APPROVAL, WHILE LESOTHO MADE NO RESPONSE, APPARENTLY TACITLY APPROVING.

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DURING THE NEXT SEVERAL MONTHS, THE REGISTRAR WROTE TO THE

THREE GOVERNMENTS REGARDING THE CONTRACT.DURING THE PERIOD BETWEEN APRIL 74 AND MID-JULY 75, REFERENCES TO ROGERS CONTRACT WERE CARRIED IN THE MINUTES OF SEVERL COUNCIL MEETINGS WITH NO REACTION FROM LESOTHO.

3. MORE THAN A YEAR AFTER THE MEETING WHICH DISCUSSED THE CONTRACT, THE LESOTHO REPRESENTATIVE AT A COUNCIL MEETING ON JULY 17, 1975 ANNOUNCED THAT HIS GOVERNMENT HAD NOT DECIDED WHETHER OR NOT ROGERS SHOULD BE GIVEN A CONTRACT. LESOTHO THEN SAID THAT ROGERS CONTRACT SHOULD END IN JULY 1975. (HERE MOOKODI REITERATED THE GOB POSITION THAT NO SINGLE GOVERNMENT CAN VETO UNIVERSITY COUNCIL ACTIONS BECAUSE THE SUPREME AUTHORITY FOR THE UNIVERSITY RESTS WITH THE COUNCI). THE CHAIRMAN OF THE COUNCIL WAS ASKED TO DISCUSS THE MATTER WITH THE GOVERNMENT OF LESOTHO ON THE BASIS THAT ROGERS HAD A CONTRACT AND TO ASK WHY LESOTHO WAITED SO LONG TO REACT TO THE QUESTION OF THE CONTRACT. MOOKODI RECOGNIZED THAT LESOTHO HAS NOT BEEN HAPPY ABOUT THE DEVOLUTION PROCESS AND IDENTIFIED ROGERS WITH IT. BUT, HE SAID, THEIR DELEGATES WERE NEVER PREPARED TO DISCUSS THE MATTER.

4. MOOKODI RECALLED THAT FOLLOWING THE JUNE 1975 MEETING OF MINISTERS TO DISCUSS THE LUYENGO DEVOLUTION PLAN THE UNDP WAS ASKED BY LESOTHO TO DO A STUDY WHICH WOULD HAVE REOPENED THE DEVOLUTION QUESTION. THE TWO GOVERNMENTS VOTED AGAINST SUCH TERMS OF REFERENCE AND THE STUDY GROUP CAME OUT TO ADVISE ON ADMINISTRATION, MANAGEMENT, ET. THIS GROUP PROPOSED THAT ROGERS BE GIVEN A ONE-YEAR CONTRACT INSTEAD OF FOUR. BOTSWANA AND SWAZILAND AGREED. LESOTHO SAID NO.

5. THE NEXT ACT WAS THE MEETING ON SEPTEMBER 15, 1975 OF THE THREE HEADS OF GOVERMENT IN SWAZILAND. AGAIN, A ONE-YEAR CONTRACT WAS PROPOSED BY SWAZILAND AND BOTSWANA. LESOTHO REFUSED TO CONSIDER A CONTRACT, AGAIN REFUSING TO PROVIDE ANY REASONS FOR OPPOSING ROGERS.

6. AT THIS POINT, AMBASSADORASKED WHETHER ROGERS CONTRACT CALLED FOR THE DEVELOPMENT OF A COUNTERPART. MOOKODI SAID THAT HE HAD NOT SEEN THE CONTRACT BUT HE DID NOT THINK THE DEVELOPMENT OF A COUNTERPARTY WAS DIRECTLY OR EXPLICITLY CALLED FOR. LIMITED OFFICIAL USE

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HE NOTED THAT DEVELOPING A COUNTERPARTY COULD BE TRICKY BUSINESS (SEE MASERU 1075 FOR GOL POSITION).

7. MOOKODI WENT ON TO NOTE THAT AT A REGULAR COUNCIL MEETING HELD ON SEPTEMBER 17 BEFORE GRADUATION CEREMONIES IN GABORONE, THE COUNCIL (PRESUMABLY ONLY CONSISTING OF BOTSWANA AND SWAZILAND) REAFFIRMED THE FOUR-YEAR CONTRACT AND INSTRUCTED ROGERS TO MOVE TO BOTSWANA OR SWAZILAND, SINCE IT WAS

CLEAR THAT LESOTHO NO LONGER RECOGNIZED HIM OR WANTED HIM. ROGERS' MOVE THEREFORE WAS THE RESULT OF COUNCIL ACTION, NOT THE RESULT OF BEING THROWN OUT.

8. THINGS WERE MADE VERY DIFFICULT FOR ROGERS IN ROMA ON HIS RETURN. THE LESOTHO GOVERNMENT IMPOSED A RESTRAINING ORDER ON SEPTEMBER 26 TO PREVENT THE COUNCIL (AND ROGERS) FROM REMOVING ANYTHING FROM THE ROMA CAMPUS OR FOR PAYING FOR ROGERS TRANSPORTATION. SIX POLICE WERE PLACED IN HIS RESIDENCE, ONE REMAINING ALL NIGHT TO PREVENT HIM FROM REMOVING IMPROPER OBJECTS. ROGERS LEFT BEHIND MANY OF HIS PERSONAL BELONGING.

9. ON OCTOBER 6, A SPECIAL MEETING WAS HELD OF THE UNIVERSITY COUNCIL, WHICH OPPOSED THE RESTRAINING ORDER ON THE PRINCIPLE THAT THE COUNCIL IS SUPREME ON UNIVERSITY MATTERS AND THAT IT WAS UNFAIR AND IMPROPER FOR LESOTHO TO ACT UNILATERALLY. AT THIS MEETING, ROGERS "VOLUNTARILY" SAID THAT IF THE UNIVERSITY DESIRED, HE WOULD WORK UNTIL THE END OF THE CURRENT ACADEMIC YEAR (UNTIL MAY) AND BE PREPARED TO LEAVE AT THAT TIME, SUBJECT TO THE FEELING OF THE COUNCIL. ACCORDING TO MOOKODI, THE COUNCIL DID NOT ADDRESS THE ROGERS OFFER, BUT TOOK NOTE OF IT TO BE REVIEWED AT THE DECEMBER COUNCIL MEETING, SINCE THE COURT ORDER AND THE CONTRACT WERE THE TWO MAIN ISSUES TO BE ADDRESSED AT THE MEETING. NO GENTLEMAN'S AGREEMENT WAS REACHED ON LIMITING ROGERS' CONTRACT. THE BOTSWANA DELEGATION, AT LEAST, THOUGHT THAT AS A RESULT OF THE MEETING LESOTHO WOULD REVERSE THE COUNRT ORDER.

10. THE AMBASSADOR NOTED THAT HE WAS IN MASERU AT THE TIME AND THAT THE LESOTHO REPRESENTATIVES RETURNING FROM THE MEETING SEEMED SINCERELY RELIEVED AT WHAT THEY THOUGHT WAS AN AGREE-
MENT THAT ROGERS WOULD LEAVE IN JANUARY OR AT THE END OF THE ACADEMIC YEAR AT THE LATEST. MOOKODI RECALLED A REUTERS ARTICLE
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FROM MASERU WHICH CLAIMED THAT ROGERS HAD RESIGNED. HE SAID THAT THE LESOTHO OFFICIALS DELIBERATELY MISCONTRUED THE DEVELOPMENTS AT THE OCTOBER 6 METTING. HE RECALLED THAT BOTSWANA HAD IMMEDIATELY PUBLISHED A CLARIFICATION OF THE REUTERS ARTICLE.

11. THE AMBASSAOR ASKED WHAT THE POSITION OF BOTSWANA AND SWAZILAND WOULD BE IF ROGERS RESIGNED NOW. MOOKODI SAID IF ROGERS WANTS TO GO, HE CAN GO. NO ONE WOULD TRY TO PREVENT HIM

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FROM LEAVING. BUT THE ISSUE RESTS ON HIS HOLDING A VALID CONTRACT
APPROVED BY THE COUNCIL.

12. ACCORDING TO MOOKODI, THE LAST ACT OF THE DRAMA WAS A
MEETING IN MASERU ON OCTOBER 20, PRIOR TO THE SCHEDULED HEARING
ON THE LESOTHO INJUNCTION. THE LESOTHO LEGAL TEAM ASKED THE
COUNCIL LEGAL TEAM FOR DISCUSSIONS PRIOR TO THE HEARING, AT
WHICH TIME THE LESOTHO TEAM RECOMMENDED THAT THE ISSUES BE
SETTLED OUT OF COURT. THE COUNCIL TEAM, HOWEVER, SAID THAT
THEY PREFERRED TO GO TO COURT BECAUSE THEY WERE CONFIDENT OF
WINNING, WHICH WOULD CAUSE THE LESOTHO GOVERNMENT TO BE LIABLE
FOR COURT CHARGES AND WOULD ALSO ESTABLISH THE PRECEDENT OF
THE SUPREMACY OF THE COUNCIL.

13. THE LESOTHO TEAM SAID THAT ON THAT BASIS IT WOULD HAVE TO
SEEK ADVICE FROM ITS GOVERNMENT BEFORE FURTHER DISCUSSIONS.
IT CAME BACK WITH AN OFFER TO PAY COSTS IF THE HEARING WERE DROPPED
WHICH WAS ALSO REFUSED BY THE COUNCIL LEGAL TEAM. AT THIS
TIME THE LESOTHO TEAM THREATENED THAT THEY COULD INSTITUTE
ANOTHER COURT ORDER CONTINUING THE RESTRAINT PENDING AN ACT
IN PARLIAMENT ON NATIONALIZATION.

14. IN THE HEARING, THE CHIEF JUSTICE OF LESOTHO FOUND AGAINST
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THE GOVERNMENT OF LESOTHO CHARGING THEM FOR COURT COSTS AND

"CONSULTATION FEES." DURING THESE DEVELOPMENTS, CABLES ARRIVED AT THE OFFICE OF THE PRESIDENT IN GABORONE AND THE MINISTRY OF FOREIGN AFFAIRS IN MBABANE ANNOUNCING THAT THE GOVERNMENT OF LESOTHO HAD DECIDED TO NATIONALIZE THE UNIVERSITY CAMPUS AT ROMA BECAUSE OF THE ROGERS CONTRACT AND THE MOVE OF THE SEAT OF THE UNIVERSITY TO MBABANE.

15. MOOKODI GAVE HIS OPINION THAT THE ACT OF PARLIAMENT WAS THE RESULT OF THE REALIZATION ON THE PART OF THE LESOTHO LEGAL TEAM, AFTER HAVING SEEN THE COUNCIL LEGAL TEAM'S BRIEF, THAT THEY WOULD BE BEATEN IN COURT, AS THEY WERE. THEREFORE, THE LESOTHO CABINET DEVELOPED THE DRAFT LEGISLATION TO SAVE FACE AND TO PROTECT THEIR POSITION OF CONTROL OF THE ROMA CAMPUS.

16 THE AMBASSADOR ASKED IF MOOKODI THOUGHT THAT LESOTHO WOULD HAVE DONE THIS IF ROGERS HAD RESIGNED. MOOKODI ANSWERED THAT HE THOUGHT SO BECAUSE THE COUNCIL WOULD HAVE INSISTED ON GOING TO COURT WHETHER OR NOT ROGERS RESIGNED IN ORDER TO PROTECT THE PRINCIPLE OF ITS SUPREMACY.

17. THE AMBASSADOR ASKED WHAT WOULD HAVE HAPPENED IF LESOTHO HAD WITHDRAWN THE INJUNCTION. MOOKODI SAID THAT WOULD HAVE BEEN AN ADMISSION BY LESOTHO THAT THE INJUNCTION WAS IMPROPER. HOWEVER, TO WITHDRAW THE INJUNCTION WOULD HAVE REQUIRED GOING TO COURT AND HAVING THE INJUNCTION WITHDRAWN IN A FORMAL HEARING.

18. MOOKODI CONCLUDED HIS PRESENTATION BY SAYING THAT HE HAD COME TO BRIEF THE AMBASSADOR BECAUSE BOTSWANA AND SWAZILAND FOUND THEMSELVES IN AN EMBARRASSING POSITION. BOTH GOVERNMENTS WANTED A REGIONAL UNIVERSITY FOR SEVERAL REASONS: COMMON HISTORY OF THE THREE COUNTRIES, ITS IMPORTANCE IN ATTRACTING DONOR SUPPORT, ITS VALUE AS AN ELEMENT IN MAINTAINING SOLIDARITY AMONG THE THREE COUNTRIES, AND FINALLY (AND REALISTICALLY) A LACK OF FUNDS, PERSONNEL, ETC., TO RUN SEPARATE UNIVERSITIES. BOTSWANA HAD AGREED TO DEVOLUTION, BY WHICH HE MEANT THREE CAMPUSES WHICH COMPLEMENT EACH OTHER.

19. MOOKODI ASKED RHETORICALLY WHAT THE GOVERNMENTS COULD DO. COULD THERE BE A UNIVERSITY OF BOTSWANA AND SWAZILAND? HE LIMITED OFFICIAL USE

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SAID THEY MUST LOOK FOR RESOURCES IN THE NEW SITUATION, NEW FACULTIES OF LAW, PART II SCIENCE, AND ECONOMISTS, FOR EXAMPLE, THE TWO COUNTRIES WERE FORCED TO "RUN AROUND THE WORLD" ASKING FOR HELP. HE SAID THE PROBLEM WAS LESOTHO'S FAULT. THEY HAVE ADMITTED IT BY NATIONALIZING THE CAMPUS. HE SAID THERE WERE LEGAL QUESTIONS INVOLVED. FOR EXAMPLE, THE INSTRUCTORS AT THE ROMA CAMPUS ARE EMPLOYED BY THE COUNCIL, AND THERE ARE REGIONAL FACILITIES AT ROMA. MOOKODI SAID THAT THE GOVERNMENTS

WOULD BE FORCED TO "SAY PLEASE" TO AID AND ODM TO HELP. ON THE OTHER HAND, LESOTHO WOULD BE TELLING ITS STORY.

20. THE AMBASSADOR SAID THAT LESOTHO'S POSITION WAS STILL NOT CLEAR. WE UNDERSTOOD FROM MASERU THAT THE LEGISLATION WAS MERELY "ENABLING.". MOOKODI SAID THAT THE FACULTY MEMBERS HAD BEEN GIVEN SEVEN DAYS AS OF THE 20TH TO MAKE THE DECISIONS ON WHETHER OR NOT TO REMAIN AT ROMA AND THAT THEY WERE VERY UPSET. AS A RESULT THERE WILL BE A MEETING OF THE UNIVERSITY COUNCIL ON FRIDAY, OCTOBER 24. MOOKODI SAID HE WAS SURE THAT LESOTHO HAD BEEN INVITED SINCE THEY ARE STILL CONSIDERED TO BE A PART OF THE COUNCIL. HOWEVER, HE EXPRESSED THE OPINION THAT THEY WOULD NOT TURN UP.

21. AMBASSADOR BOLEN REITERATED THAT THE APPEARANCE IN MASERU COULD INDICATE SOME RETREAT FROM A FINAL POSITION BY THE LESOTHO GOVERNMENT. HE ASKED MOOKODI WHAT HE THOUGHT WOULD HAPPEN IF ROGERS OFFERED TO LEAVE NOW. MOOKODI SAID THERE WOULD BE NO RESTRAINT FROM THE BOTSWANA GOVERNMENT BUT THE BALL WOULD THEN BE IN LESOTHO'S COURT. HERE MOOKODI ASSERTED THAT THERE HAD BEEN NO COUNCIL RESOLUTION OR ACTION TO MOVE THE SEAT OF THE UNIVERSITY TO MBABANE (THE OTHER LESOTHO CONTENTION AS A CAUSE FOR THE PARLIAMENTARY ACT). THE MOVE OF ROGERS WAS MADE FOR THE REASONS STATED BEFORE, WITH THE INTENTION TO RETURN HIM TO ROMAS WHEN THE SITUATION RETURNED TO NORMAL.

22. AMBASSADOR NOTED THAT HE HAD RECEIVED NO INSTRUCTIONS REGARDING THE UBLS MATTER. ALTHOUGH WE HAD FOLLOWED DEVELOPMENTS OVER THE PAST MONTHS, WE HAVE NOT BEEN INVOLVED SINCE IT WAS A MATTER FOR THE THREE GOVERNMENTS. AMBASSADOR RECALLED OUR SUPPORT FOR THE UNIVERSITY AND HOPE THAT ITS REGIONAL CHARACTER WOULD CONTINUE. HE NOTED THAT A BREAKUP WAS QUESTIONABLE FROM A COST EFFECTIVENESS POINT OF VIEW. HE EXPRESSED THE VIEW

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THE THREE GOVERNMENTS SHOULD SEIZE ALL OPPORTUNITIES, HOWEVER SLIGHT, TO PRESERVE THE TRILATERAL NATURE AT THE UNIVERSITY, PARTICULARLY IN VIEW OF ALL THE COST AND EFFORTS EXPENDED TO DATE. BOLEN.

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